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Hi there

Accountability, prominence and impartiality

A meta-analysis of misinformation research published this week found that, despite the large number of studies conducted since the onset of the Covid-19 pandemic, there is little consensus on which interventions are effective. The paper, authored by researchers from Brown University's Information Futures Lab, found a wide divergence in study design and revealed an emphasis on individual behavioural effects over social or public outcomes, particularly those relating to health. A larger systematic analysis published earlier by the International Panel on the Information Environment (IPIE) noted similar limitations.

This lack of consensus is due in part to the interdisciplinary nature of the field, and in part to the intrinsic complexity in the causes and effects of misinformation. Both studies urge greater collaboration and standardisation, as well as a broadened focus beyond the US and Europe. Both the IPIE and follow-up research from Brown point to the lack of platform data as a critical barrier to research, with the IPIE arguing that 'directing more efforts toward making accurate data more available and enhancing technical infrastructure holds greater potential than the current focus of developing new policies and content moderation measures'. This holds lessons for Australia's approach to misinformation regulation, which, as we have previously argued here and in policy submissions, must look to incentivise improvements in the broader information environment rather than focus narrowly on problematic types of content. This means holding platforms accountable for platform design, as well as ensuring access to data.

Ruth Janal, professor of civil law, intellectual property law and commercial law at Germany's Bayreuth University, and CMT visiting fellow, argues in this week's newsletter

that Australia would do well to look at Europe's broad approach to platform accountability under its Digital Services Act (DSA), which has an 'overarching goal on fostering a safe and responsible online environment'. She notes in particular its differing approach to data access and enforcement.

Amongst other requirements, the DSA imposes a stringent takedown regime for illegal content using a system of 'trusted flaggers'. Marian-Andrei Rizoiu, head of UTS's Behavioural Data Science lab and also a CMT associate, has recently published a study that demonstrates the potential effectiveness of the DSA regime in reducing the proliferation of harmful online content, despite the scale and speed required. These are important findings for policymakers beyond the DSA, including in Australia.

On a similar theme, Sacha introduces Californian tech-lawyer Richard Whitt, who visited CMT last week to discuss his ideas for promoting platform accountability and improving trust in the digital media space. Meanwhile, Derek looks at the contradictory findings in the research conducted by Free TV and ASTRA on public attitudes to imposing rules on television manufacturers to increase the prominence of free-to-air content and services. And finally, Monica discusses the difficulty of reporting on Gaza when so much is at stake, the subject of an online forum held last week.

Two weeks ago, Ayesha talked to three exiled journalists from the Global South – Afghanistan, Pakistan, and Saudi Arabia – about the impact of transnational displacements on their reporting practices, journalistic independence, and cross-border collaborations. The declining reputation of exiled journalists in their homeland was a particular concern. You can watch the video here.

Michael Davis
CMT Research Fellow

The global fight against misinformation

As the Australian Government ponders new legislation to provide ACMA with powers to tackle online misinformation and disinformation, it may look to the EU's Digital Services Act (DSA) for inspiration. The Digital Services Act will generally apply from 17 February 2024. Some of its rules already apply to very large online platforms, who have presented their first reports under the DSA rules. These reports have yielded interesting information, for example, about the language capabilities of content moderators and the expected error

rates of the algorithmic filters used.

The DSA applies to all internet service providers offering their services to recipients within the European Union. The regulation combines safe-harbour provisions for internet service providers with harmonised due-diligence obligations. The DSA's safe-harbour provisions already exist in EU law and are simply transferred from the eCommerce Directive to the Digital Services Act. In contrast, the due-diligence rules are new and untested. With respect to such due-diligence obligations, the DSA takes a pyramid approach: while there are some general provisions that apply to all internet service providers, many of the due-diligence requirements apply only to host providers. A subcategory of host providers, the so-called online platforms, are expected to comply with additional obligations. Finally, very large online platforms (VLOPs) and very large search engines (VLOSEs) must implement a risk-management system. A service is deemed 'very large' if its active user base exceeds 45 million recipients (which amounts to roughly 10% of the EU's population).

As part of this risk-management system, VLOPs and VLOSEs are required to identify, analyse and assess any systemic risks arising from the design or operation of their service and its related systems. These risks include, but are not limited to, 'any actual or foreseeable negative effects on civic discourse and electoral processes and public security', in particular misinformation and disinformation. Providers are required to put in place reasonable, proportionate and effective mitigation measures which are tailored to the specific systemic risks. As misinformation and disinformation are often spread via advertisements, VLOPs and VLOSEs are also required to create a publicly accessible database of the advertisements shown to their users.

VLOPs and VLOSEs must prepare reports both on their risk assessment and on subsequent mitigation measures. They are also subject to a yearly independent audit to assess their compliance. More critically, VLOPs and VLOSEs are required to provide access to their data systems. This access must be provided both to regulators for compliance monitoring and to vetted researchers for research that contributes to the detection, identification and understanding of the systemic risks of their services. As VLOPs and VLOSEs are large corporations with seemingly unending funds, even authorities at EU level are generally under-staffed and underfunded in comparison. The DSA seeks to address this problem by having the European Commission charge a supervisory fee from such service providers.

The DSA also provides for some elements of co-regulation. It calls on the European Commission to encourage and facilitate the drawing up of voluntary codes of conduct to tackle different types of systemic risks. With regard to disinformation, an EU Code of Practice on Disinformation already exists. However, an assessment of its implementation and effectiveness undertaken by the EU Commission in 2021 has shown mixed results. Moreover, social media company Twitter pulled out of the Code in May of 2023. As another co-regulatory tool, the European Commission may initiate the drawing up of voluntary crisis protocols for managing crisis situations. It is envisioned that, in the event of a crisis such as a pandemic, these protocols could allow official information to be prominently displayed on the platforms.

The Digital Services Act has the overarching goal of fostering a safe and responsible

online environment. It also covers many issues that, in Australia, are covered by the Online Safety Act. By comparison, the proposed Australian legislation to tackle online misinformation and disinformation is much more tailored. From an outsider's perspective, the divide between misinformation and e-safety seems artificial, as the fight against misinformation is but one aspect of e-safety. Looking at the DSA from an Australian viewpoint, the supervision and enforcement mechanisms of the DSA might warrant a closer look. In particular, access to data for vetted researchers provides regulators, authorities and the public with a much better understanding of misinformation and disinformation on online platforms than the reports and requests for information envisaged under the proposed Australian legislation. In addition, the imposition of a monitoring fee on larger platforms may be worthwhile even under the proposed co-regulatory scheme.

Ruth Janal
Professor of civil law, intellectual property law and commercial law, Bayreuth University and CMT Visiting Research Fellow

Humanising the net

Amid all the hyperlinks and hyperbole, it can be easy to grow despondent. Is privacy dead? Is AI ungovernable? Is the hot mess of streaming services just a more expensive, frustrating version of the bleak mediascape depicted in Bruce Springsteen's 1992 song *57 Channels (and nothin' on)*?

Last week, Richard Whitt came to visit UTS Law and the CMT. Whitt is a Californian lawyer and techie who has collaborated with internet pioneer Vint Cerf, worked at the Mozilla Foundation and been a senior fellow at the Georgetown Institute for Technology Law and Policy. Now at Twilio, he has also spent more than a decade at Google. Over the years, however, he's become disillusioned with the internet.

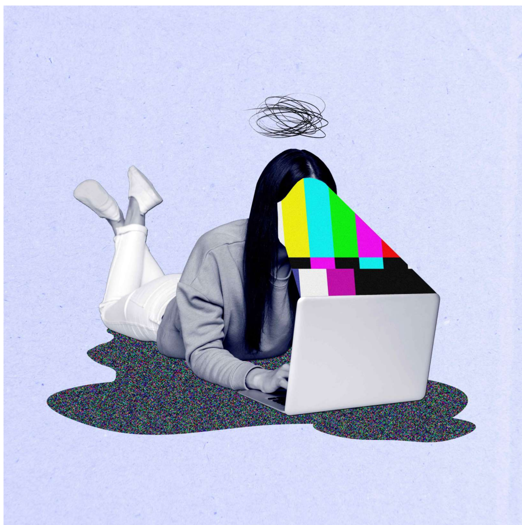
As Whitt explained, the internet originally comprised a peer-to-peer network, which was democratic by design. Unfortunately, this original design has given way to a commerce-based architecture that's extractive and exploitative. Whitt categorises this as the 'SEAMs' paradigm: Surveillance, Extraction, Analysis and Manipulation, all carried out in a self-reinforcing feedback loop. 'This is not the way it has to be,' he says. Whitt wants to see this paradigm replaced with the 'HAACS' paradigm, which stands for Human Autonomy and Agency via Computational Systems.

More than just catchy acronyms, Whitt proposes regulatory and technological solutions, including making companies digital fiduciaries that bear significant responsibilities on behalf of their users, and developing 'personal AIs' that can represent and protect individuals in their online engagements. Whitt spells out these proposals in a 2021 *Colorado Technology Law Journal* paper called 'Hacking the SEAMs'. To spread these ideas, and more broadly to create a digital media space characterised by trust rather than exploitation, Whitt started the GLIA Foundation.

Globally, positive steps have been taken recently, including the Bletchley Park Accords struck by 28 countries on the use of AI, the G7 agreeing to a code of conduct for companies developing AI, the Executive Order issued by the White House on 'Safe, Secure and Trustworthy AI', and the EU's AI Act. All in all, says Whitt, there are good reasons for optimism, and reason to hope human-centric tech will prevail.

Sacha Molitorisz
Senior Lecturer – UTS Law

Pride and prominence



It's time to revisit a slow-bake issue we covered at the start of the year – one that is now fully cooked and seeping over the sides of its pan. It's the innocuously named 'framework for prominence'. At its core, prominence is about the ease of locating local media content on smart TVs, whether through the positioning of apps on menus that run along the bottom of the screen, or the algorithmic tweaking that brings forth channels and programs in search results.

The issue has been around for a while now. At the end of last year, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts invited submissions on a proposals paper. Describing prominence in terms of availability, positioning and discoverability, it posed questions about what services any rules should apply to (such as free-to-air TV, 'BVOD' services like 9Now and SBS On Demand, or Australian pay TV services) as well as questions about how regulation should be shaped.

The issue has attracted a lot of attention in the past few weeks. As Calum Jaspan explained in the SMH, a brawl has erupted between the Australian free-to-air and pay TV sectors over proposed legislation. The two industry associations, Free TV and ASTRA, have published survey results with different findings on how the public views this issue.

The Free TV/Seven West survey shows very strong support (78%) for the proposition that users should be able to easily locate free TV services. In contrast, a similar larger number of respondents to the ASTRA/Foxtel survey (73%) support the idea that 'Australians want the ability to customise the order and layout of the apps on their TV themselves'.

The crux of the dispute between Free TV and ASTRA is clear from the additional finding in the Free TV survey that '84% of people want to receive a free service option before the paid option'. Both surveys showed low confidence or inclination among viewers to change the presentation of apps pre-installed by manufacturers.

Commentary on the survey showed the free-to-air sector has found a smart way of deploying a long-effective appeal to the nation to support universal access to 'culturally important content': 'to continue creating the moments that unite the nation, Australians have to be able to find it'. ASTRA, meanwhile, has drawn on the spectre of government interference in the private lives of citizens. Its survey found that, 'When given the choice, 94% of Australians said they don't want the government controlling the order and layout of the apps on their TV'. A related finding shows the pleasing results that come from asking a question about an indisputable proposition: '80% of Australians believe the choice on what they watch should be their own'.

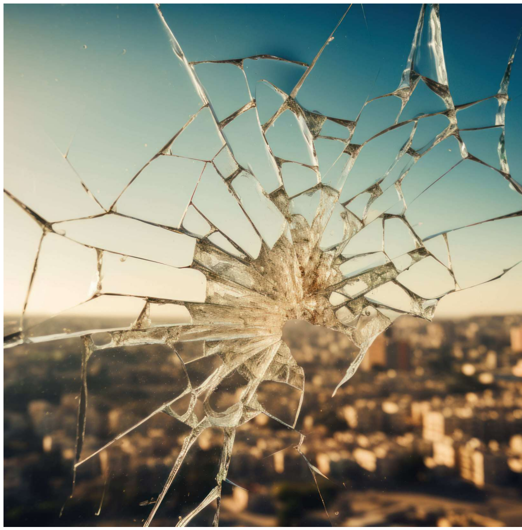
The ASTRA research findings supported a hyperbolic advertisement that warned, 'THE GOVERNMENT WANTS TO CONTROL YOUR TV'. It was accompanied by a call to support a letter-writing campaign urging people to tell their MPs that, 'This type of regulation goes against what Australia has worked hard to build as a democracy with free markets, freedom of choice and freedom of speech'. The theme has been taken up by Sky News in reports and commentary that emphasise how the legislation will advance the interests of the ABC over its own.

As the tension between the competing industry sectors grows – Sky News and A Current Affair have both dealt themselves into the drama – the Minister has said she intends to introduce legislation as soon as practicable.

Certainly, there are commercial interests at play here. But this kind of regulatory assistance needs to be viewed alongside our continuing expectation that the national broadcasters and the free-to-air commercial networks will fulfil certain public-interest functions that don't extend to pay TV.

Derek Wilding
CMT Co-Director

A tough gig



The Palestinian-Israeli conflict is one of the most difficult, solution-resistant conflicts the world has confronted. For journalists, it is shaping up as one of the most difficult, confronting and ethically challenging conflicts to cover.

There's been discontent expressed by audiences and journalists at what they say is biased coverage of the conflict. Audience complaints to the BBC have been split fairly evenly between those complaining the coverage is biased towards Palestinians and those who believe its biased towards Israel. There's no available statistics for complaints made to the ABC, where two weeks ago some journalists went to management to complain that spokespeople from Israeli- and Palestinian-aligned organisations were held to differing standards.

The ABC ombudsman, Fiona Cameron, has investigated four audience complaints and found no breach of ABC editorial policies. But staff concerns over the ABC's reluctance to use words such as 'genocide' or 'ethnic cleansing' or 'apartheid' or 'occupation' have led ABC news management to put in place an editorial hub to advise journalists on language, which appears to have quietened the concern. As the head of ABC News, Justin Stevens, reminded staff, journalism is a difficult gig. It's one that requires you to leave your personal views at the door.

A few academics in the UTS Faculty of Arts and Social Sciences held a forum last week to discuss news media coverage of the conflict, and interrogate whether it has been biased. It brought together speakers largely supporting the Palestinian perspective to discuss how journalists, globally and in particular in Australia, were scoring. Overall, the verdict was 'not well'. There was a strong belief expressed that journalists, here and abroad, were diminishing the Palestinian perspective on the latest outbreak of violence, and they had failed to bring context to the reporting, leaving audiences with the belief that the latest outbreak of conflict was actually its first instance – that the October 7 Hamas attack on Israel was not the result of decades of oppression and what United Nations Special Rapporteur on the occupied Palestinian territories, Francesca Albanese, calls the effective imposition by Israel of apartheid on the Palestinians of Gaza and the West Bank.

I argued that the lack of context reflects the exit from journalism of highly experienced journalists, particularly those with foreign-correspondent skills who know and understand the complexity of the Israel-Palestinian conflict. There is also a problem around language, but with western journalists by and large locked out of Gaza, it is an enormous burden to place on those reporters reporting from Israel to demand they label every bombardment of Gaza as evidence of genocide or ethnic cleansing. Those are judgments for international courts to make. And finally, whilst some journalists unhappy with the coverage might believe it fair not to interview representatives of one side or the other (depending on where their biases stand), that veers perilously close to advocacy, which is not the purpose of journalism. Deplatforming diminishes the suffering of those who are denied a voice. The

job of journalists covering conflict is to report objectively, using verified information, rejecting propaganda, applying context and knowledge of history to deliver an accurate picture that does no harm to either side. It's a tough gig. Falling short of this standard is failure.

Monica Attard
CMT Co-Director

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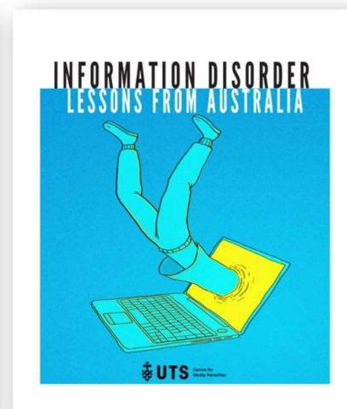

The Centre for Media Transition and UTS acknowledges the Gadigal and Guring-gai people of the Eora Nation upon whose ancestral lands our university now stands.
We pay respect to the Elders both past and present, acknowledging them as the traditional custodians of knowledge for these places.

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